

IN THE SENATE OF THE UNITED STATES.

MARCH 3, 1860.—Ordered to be printed.

Mr. NICHOLSON submitted the following

REPORT.

*The Committee on Revolutionary Claims, to whom was referred the papers in the case of Jacob Bigelow, administrator of Francis Cazeau against the United States, submit the following report :*

In 1817, Congress passed an act appropriating forty-two thousand seven hundred and thirty-seven dollars and ninety-three cents to be paid "to the legal representatives of Francis Cazeau, late merchant at Montreal, or to his or their assignee, or attorney, or other person lawfully entitled to receive the same, in full compensation for all claims against the United States." This amount was admitted to be due on account of supplies furnished by Mr. Cazeau to the army of the American revolution. After the passage of the act referred to, the amount was paid to Josephus B. Stewart, acting as the attorney in fact of Francis Corbeaux, who claimed to be the agent and assignee of Francis Cazeau. After the payment so made, the heirs of Cazeau applied to Congress for payment of the amount so appropriated in 1817, alleging that the payment to Stewart was wrongful and fraudulent, and denying his authority to receive the same. The subject was investigated, and, in 1844, an act was passed appropriating twenty-seven thousand three hundred and fifty-two dollars and thirty-two cents to be paid "to the legal representatives of Francis Cazeau, or to their legal attorney, or other person lawfully entitled to receive the same, it being one fourth of the sum appropriated under an act of Congress approved on the 3d of March, 1817, with interest from May, 1818." This amount was paid to the legal representatives of Francis Cazeau ; but being dissatisfied with the result, they renewed their application to Congress for the residue, being three fourths of the appropriation made in 1817. On the 8th of March, 1858, the application was referred to the Court of Claims, and after full investigation and argument, the court decided that the applicants were not entitled to be paid the three fourths of the appropriation of 1817, but that they had received all they were legally entitled to when Congress appropriated to them one fourth thereof in 1844. In this decision, two of the three judges concurred, the third giving a dissenting opinion.

Congress is now called upon to review and reverse the decision made

by the Court of Claims. The committee have carefully examined the grounds on which this application is made, and have come to the conclusion that there is no justifiable reason on which to question the correctness of the decision made by the court. The only question on which the case turned upon the court was, whether the power of attorney and assignment made by Cazeau to Corbeaux in 1808 had been revoked, either by legal proceedings for that purpose, or by the death of Cazeau, prior to the time when Stewart, acting as the agent of Corbeaux, received the payment, in 1817. The court held that, as to three fourths of the claim, Corbeaux was an agent coupled with a vested interest, whilst as to the other fourth, he was merely an attorney in fact. The death of Cazeau would not revoke the assignment of the three fourths, but as to the other fourth, it would operate as a revocation. Such was the opinion of the Court of Claims, and such also was the opinion of Congress in 1844, when one fourth of the claim was ordered to be paid. The court also decided that there was not sufficient evidence in the case to show that the assignment of the three fourths of the claim had been revoked, as alleged, by legal proceedings. Congress seems to have come to the same conclusion in 1844, in deciding that only one fourth of the claim was legally due to the legal representatives of Cazeau.

The committee are unable to discover any error in the conclusions to which the Court of Claims arrived, and they accordingly report adversely to the memorial, and ask to be discharged from the subject.